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THE PATENT OFFICE OF THE PEOPLE'S REPUBLIC OF CHINA

Postal code: 100738 Suite 1602, Tower E2, The Towers, Oriental Plaza, No.1, East Chang An Ave., Dongcheng District, Beijing 100738, P. R. China BEIJING EAST IP LTD. Yi WANG, Qihua LI	Date of Issue: July 15, 2005
Application No. 03134904.8	

Applicant: NEC Corporation
Title of the Invention: MANAGEMENT APPARATUS, MANAGEMENT SYSTEM, MANAGEMENT METHOD, AND MANAGEMENT PROGRAM FOR MEMORY CAPACITY

FIRST NOTIFICATION OF OFFICE ACTION

1. ☒ In accordance with the Request for substantive examination of the applicant, the examiner has made the examination on the above cited patent application based on the provision in paragraph 1, Article 35 of the PRC Patent Law.
☐ The Patent Office itself has decided to make a substantive examination for the above cited patent application based on the provision in paragraph 2, Article 35 of the PRC Patent Law.
2. ☒ The applicant requested to designate the filing date of

October 2, 2002	in the Patent Office of	JP	as the priority date;

☒ with the submission of certified copy of Priority Documents.
☐ no certified copy of priority document has been received heretofore and, according to the provisions of Article 30 of the PRC Patent Law, it is deemed that no priority right has been requested.
3. ☐ The applicant submitted the claims after examination, the reason being that the above cited claims
☐ is not in conformity with the provisions of Article 33 of the PRC Patent Law;
☐ is not in conformity with the provisions of Rule 51 of the Implementing Regulations of the PRC Patent Law.
4. ☒ Examination is made based on the original filing document.
☐ Examination is made based on the following documentations
the original filing documents submitted on the filing date: Claims____, pages of the description, Pages ____ of the accompanying drawings,
the documents submitted on ____ Claims____, page(s) _____ of the description, Page(s)____ Figure(s) ____ of the accompanying drawings,
the abstract of description submitted on ____;
the drawing of abstract submitted on ____.
5. ☐ The notification is made without conducting the search for the patentability.
☒ The notification is made under the search for the patentability.

- ☒ The following reference materials have been cited in this notification (their serial numbers will be referred to in the following procedure):

Serial Number	Number or Title of Reference Material	Publication Date (or Filing Date of A Conflict Patent Application)
1	CN 1201 190 A	1998-12-9
2	US2002/0049826A1	2002-4-25

6. The conclusion of the examination:

- ☒ In regard to the description:
- ☐ The subject matter of the present application is not accepted based on the Article 5 of the PRC Patent Law.
- ☐ The description is not in conformity with the provision of paragraph 3, Article 26 of PRC Patent Law.
- ☐ The description does not conform to the provisions of rule 24 of the Implementing Regulations of the Patent Law.
- ☒ The presentation of the description is not in conformity with the provision of Rule 18 of the Implementing Regulations of the PRC Patent Law.
- ☐ The presentation of the description is not in conformity with the provision of Rule 19 of the Implementing Regulations of the PRC Patent Law.

☒ In regard to the Claims:

- ☒ Claims 17-24 can not be allowed beyond the scope of the protection based on the Article 25 of the PRC Patent Law.
- ☐ Claims ___ do not belong to the definition of invention based on the provision of paragraph 1, Rule 2 of the Implementing Regulations of the PRC Patent Law.
- ☐ Claims ___ can not be allowed owing to lack of novelty based on the provision of paragraph 2, Article 22 of PRC Patent Law.
- ☒ Claims 1,4,9,12,25,26 can not be allowed owing to lack of inventiveness based on the provision of paragraph 3, Article 22 of PRC Patent Law.
- ☐ Claims ___ can not be allowed based on the provision of paragraph 4, Article 26 of PRC Patent Law.
- ☐ Claims ___ can not be allowed based on the provision of paragraph 1, Article 31 of PRC Patent Law.
- ☐ Claims ___ can not be allowed owing to lack of inventiveness based on the provision of paragraph 4, Article 22 of PRC Patent Law.
- ☒ Claims 5-18,13-16 can not be allowed based on the provision of Rules 20 of the Implementing Regulations of the PRC Patent Law.
- ☐ Claims ___ can not be allowed based on the provision of Article 9 of PRC Patent Law.
- ☐ Claims ___ can not be allowed based on the provision of Rules 23 of the Implementing Regulations of the PRC Patent Law.
- ☐ Claims ___ can not be allowed owing to lack of novelty based on the provision of paragraph 1, Article 13 of PRC Patent Law.

The analysis of above conclusion is given in the text of this office action.

The explanation of the conclusion is given in the attachment sheet in details

7. According to the above conclusion, it is considered that

- ☐ the applicant should amend the application documents based on the request in the Attachment Sheet.

- ☒ the applicant should state the reason on which the application can be accepted and amend the part that is indicated not to be in conformity with the requirement, otherwise the application will be rejected.
- ☐ No subject matter in the application is accepted, said application will be rejected if the applicant does not make a statement or fail to make a statement.
- ☐

8. The applicant is drawn attention to that

- (1) in accordance with the provisions of Article 37 of the Chinese Patent Law, the applicant shall submit the observations within four months from the date of receiving this notification. If the applicant, without any justified reason, fails to reply within the time limit, the application shall be deemed to have been withdrawn.
- (2) the applicant shall make amendments to what is not in conformity with the provisions in the text of this notification. The amended text shall be furnished in duplicate. The formality of the document should be in conformity with the relative provisions of the Guidebook for Examination.
- (3) the applicant and/or his attorney could not go to the PRC Patent Office to meet the examiner if no appointment is made.
- (4) any response and/or amended specification must be mailed or sent by hand to the Receiving Department of the PRC Patent Office. Any documents that are not sent to the Receiving Department do not have legal force.

9. The text of the notification embraces 4 pages, along with the enclosures herein:

☐ copy of the cited references are enclosed in pages of .

Department of Examination & Cooperation

Examiner: Dan FAN(9383)

Date of decision: 2005.6.22

TEXT OF THE FIRST OFFICE ACTION

Application No. 03134904.8

The present application relates to a management apparatus for memory capacity. As described in the description, the technical problems the invention aims to solve are *"in case that a mobile terminal has a shortage in its memory for obtaining a large amount of data, vacant capacity of the memory in the mobile terminal can be secured"*. After examination, the examiner's opinions are as follows.

1. *The technical solutions claimed by independent claims 1, 4, 9, 12, 25, 26 do NOT have inventiveness as stipulated by Paragraph 3, Rule 22 of the Chinese Patent Law.*

Independent claim 1 seeks protection for a management apparatus for memory capacity. Reference 1 (CN1201190A, corresponding to US patent application No. 09,052,099, and referred to as "Ref. 1" hereinafter) discloses an apparatus for managing a memory size of files of the portable information terminal, and particularly, discloses the following technical features (see Fig 2-3 and corresponding portions of the description for describing Fig 2-3): a list of files of the portable information terminal in a master sever, which manages a memory size of files of each portable information terminal in a network (corresponding to management apparatus for memory capacity of claim 1); judging whether files to be transmitted to each portable terminal is transmitted or not, by comparing the size of the memory available (corresponding to vacant capacity of claim 1) in each of the portable information terminals, which is managed by the list of files of the portable information terminal in the master sever, with the data amount of the files to be transmitted to each portable terminal (corresponding to the operation of transmission judging means of claim 1). The different features of claim 1 from Ref. 1 are: a transmitting means that obtains some data storing in each of said mobile terminals and stores said obtained data and lets each of said mobile terminals make new vacant capacity when said data to be transmitted were judged not to be transmitted, and transmits said data to be transmitted, which were judged not to be transmitted, to each of said mobile terminals by using said new vacant capacity. However, Reference 2 (US patent application No. 09,971,491, referred to as "Ref. 2" hereinafter) discloses a management apparatus for memory capacity, in which the above different features are disclosed (see Paragraph (P) 44-P53 and Fig 1 of the description). Namely, the terminal could upload some data (i.e., a server obtains some data storing in the terminal and stores said obtained data) and let the terminal make new vacant capacity when data to be transmitted to the terminal were judged not to be transmitted due to a shortage in the terminal's vacant capacity, and transmits said data to be transmitted to said terminal by using said new vacant capacity. The technical problems solved by the above different features in Ref. 2 are the same as those in claim 1, which are *"in case that a mobile terminal has a shortage in its vacant capacity, the transmission of data to the terminal can be secured"*. As can be seen, Ref. 2 gives the teachings of applying the above different features to Ref. 1 to settle the above technical problems, and thus it would be apparent for those skilled in the art to combine Ref. 2 with Ref. 1 to obtain the technical solution of claim 1. Given this, compared with Ref. 1 and Ref. 2, claim 1 has neither

prominent substantive features nor notable progress, and thus fails to possess inventiveness.

Independent claim 4 seeks protection for a management system for memory capacity. Ref. 1 discloses a system for managing a memory size of files of the portable information terminal, and particularly, discloses the following technical features (see Paragraph 2, Fig 1-3 and corresponding portions for describing Fig 1-3 of the description): portable terminals have function of a cellular phone, and thus the portable terminals have the function of communicating with each other over network; a master sever has the function of storing files of the portable terminal, from which the following conclusion could be inferred that the master server necessarily includes a data memorizing means to implement the function of storage; a master server, including a list of files of the portable information terminal, which manages a memory size of files of each portable terminal; judging whether files to be transmitted to each portable terminal is transmitted or not, by comparing the size of the memory available in each of the portable information terminal, which is managed by the list of files of the portable information terminal in the master sever, with the data amount of the files to be transmitted to each portable terminal (corresponding to the operation of transmission judging means of claim 4). The data to be transmitted to the terminal finally will be transmitted from the server to the terminal regardless of the specific data transmission form (active/requested by the terminal) of the server. Also, the criteria for judging are based on the amount of the data to be transmitted from the server to the terminal. The above features disclosed in Ref. 1 are the same as those of claim 4, except for the server's specific data transmission form. The different features of claim 4 from Ref. 1 are: the mobile terminal comprises a data obtaining request transmitting means and a transmitting means. The feature "*transmitting means*" has already been disclosed by Ref. 2 (see P44-P53 and Fig 1 of the description) as follows: the terminal could upload some data (i.e., a server obtains some data storing in the terminal and stores said obtained data) and let the terminal make new vacant capacity when data to be transmitted to the terminal were judged not to be transmitted due to a shortage in the terminal's vacant capacity, and transmits said data to be transmitted to said terminal by using said new vacant capacity. The other feature "*the mobile terminal comprises a data obtaining request transmitting means*" is common sense in the related art, since the portable terminal could be such wireless terminal as cellular phone, and such wireless terminal in reality would commonly have functions of requesting for obtaining data from network and receiving data through a master server. Ref. 2 together with the above common sense gives the teachings of applying the above different features to Ref. 1 to solve the technical problems thereof, and thus it would be apparent for those skilled in the art to combine Ref. 1 with Ref. 2 together with common sense to obtain the technical solution of claim 4. Given this, compared with Ref. 1 and Ref. 2, claim 4 has neither prominent substantive features nor notable progress, and thus fails to possess inventiveness.

Independent claim 9 seeks protection for a management method for memory capacity at a management apparatus for memory capacity, and the technical features of which

correspond to the respective ones of claim 1. For the similar reason as claim 1, claim 9, compared with Ref. 1 and Ref. 2, fails to possess inventiveness.

Independent claim 12 seeks protection for a management method for memory capacity at a management apparatus for memory capacity, and the technical features of which correspond to the respective ones of claim 4. For the similar reason as claim 4, claim 12, compared with Ref. 1 and Ref. 2, fails to possess inventiveness.

Independent claim 25 seeks protection for a management system for memory capacity. The different features of claim 25 from claim 4 are: a management server that transmits data, which each of mobile terminals requested to obtain from a network, to each of said mobile terminals; mobile terminals, comprising a data storing means that stores data obtained from said network; and a judging means that judges whether said data requested by each of said mobile terminals are stored in said data storing means of the terminals or not. However, Ref. 1 (see Paragraph 2 of the description, Fig 1-3 and corresponding portions for describing Fig 1-3 of the description) discloses: a master server, having the function of transmitting data requested by a terminal to the terminal; portable terminals, having the function of storing files transmitted by the master server, from which the following conclusion could be inferred that the terminal necessarily includes a data storing means storing data obtained from a network. Also, the judging means of claim 25 functions essentially the same as the transmission judging means of claim 4, although they are different in expression. The other features of claim 25 are the same as the corresponding features of claim 4. Based on the above analyses together with the above reasoning for claim 4, claim 25, compared with Ref. 1 and Ref. 2, fails to possess inventiveness.

Independent claim 26 seeks protection for a management system for memory capacity. The different point of claim 26 from claim 25 is the different placement of the judging means. The judging means of claim 26 is in a mobile terminal, while the judging means of claim 25 is in a management server. However, the functions of the two judging means are the same, which is judging whether the data to be transmitted to the terminal could be transmitted to the terminal (i.e., the data could be stored in a storing means of the terminal) or not, by managing vacant capacity of each mobile terminal. The change of the position of the judging means does not affect its functions. For the similar reason as claim 25, claim 26, compared with Ref. 1 and Ref. 2, fails to possess inventiveness.

2. *"A management program for memory capacity at a management apparatus for memory capacity" claimed by claims 17-24 falls into the scope of unpatentable subject matters as stipulated by Paragraph 1, Rule 25 of the Chinese Patent Law, and thus should be deleted.*

3. *Claims 5-8 and 13-16 are not in conformity with the stipulations of Paragraph 1, Rule 20 of the Implementing Regulations of the Chinese Patent Law.*

The object indicated by the phrase "*its own*" in the phrase "*its own mobile terminal*",

State Intellectual Property Office of the People's Republic of China

which is repeatedly appeared in claim 5-8 and 13-16, is not clear.

The applicant should make amendments to the claims on the defects as pointed out above.

4. *The description of the application has unclear contents, a matter which is not in conformity with the stipulations of Paragraph 3, Rule 18 of the Implementing Regulations of the Chinese Patent Law.*

It is described in the description that *"With this method, every time when the vacant capacity of the memorizing section 14 in the mobile terminal 1 changed, the information of the vacant capacity is transmitted to the Internet service management server 3"* (see P29L12-P29L16 of the description), and the referenced method should be *"the mobile terminal 1 transmits the information of the vacant capacity of the memorizing section 14 to the Internet service management server 3 at the time when an external instrument was connected to or was disconnected from an interface connector provided in the mobile terminal 1"* as mentioned in the previous sentence of the description. However, to the examiner's understanding, the effects achieved by the method are not *"transmitting the information of the vacant capacity to the server every time when the vacant capacity of the mobile terminal changed"*, but *"transmitting the information of the vacant capacity to the server at the time when an external instrument was connected to or was disconnected from the mobile terminal"*. Thus, the above contents of the description have inconsistency problems, and the applicant should make amendments to the description to overcome the above defects. The amendments could not go beyond the scope as described in the original application.

For the foregoing reasons, the current version of the application could not be patented. The applicant should amend the claims and description to overcome the defects as indicated in the Office Action. The amendments to the application documents should be in conformity with the stipulation of *Rule 33 of the Chinese Patent Law*, and may not go beyond the scope defined by the original description and claims. The applicant should submit the amended claims, descriptions and drawings within the time limit indicated in the Office Action, and give the reasoning for the inventiveness of the new claims comparing with the references cited by the Office Action. Further, the examiner, in accordance with the stipulations of *Rule 51 of the Implementing Regulations of the Chinese Patent Law*, may not accept the amendments that are not specific to the office action.

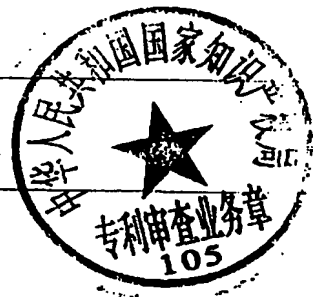
Examiner: Fan, Dan
Code: 9383



中华人民共和国国家知识产权局

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邮政编码: 100738 北京市东城区东长安街1号东方广场东方经贸城东2座1602室 北京东方亿思知识产权代理有限公司 王怡,李其华		发文日期
申请号: 031349048		
申请人: 日本电气株式会社		
发明创造名称: 用于存储器容量的管理装置、系统、方法和程序		



第一次审查意见通知书

- ☒ 应申请人提出的实审请求, 根据专利法第35条第1款的规定, 国家知识产权局对上述发明专利申请进行实质审查。
☐ 根据专利法第35条第2款的规定, 国家知识产权局决定自行对上述发明专利申请进行审查。
- ☒ 申请人要求以其在:
JP 专利局的申请日 2002年10月02日为优先权日,
专利局的申请日 年 月 日为优先权日,
专利局的申请日 年 月 日为优先权日,
专利局的申请日 年 月 日为优先权日,
专利局的申请日 年 月 日为优先权日。
☒ 申请人已经提交了经原申请国受理机关证明的第一次提出的在先申请文件的副本。
☐ 申请人尚未提交经原申请国受理机关证明的第一次提出的在先申请文件的副本, 根据专利法第30条的规定视为未提出优先权要求。
- ☐ 经审查, 申请人于:
年 月 日提交的 不符合实施细则第51条的规定;
年 月 日提交的 不符合专利法第33条的规定;
年 月 日提交的
- 审查针对的申请文件:
☒ 原始申请文件。 ☐ 审查是针对下述申请文件的
申请日提交的原始申请文件的权利要求第 项、说明书第 页、附图第 页:
年 月 日提交的权利要求第 项、说明书第 页、附图第 页;
年 月 日提交的权利要求第 项、说明书第 页、附图第 页;
年 月 日提交的权利要求第 项、说明书第 页、附图第 页;
年 月 日提交的说明书摘要, 年 月 日提交的摘要附图。
- ☐ 本通知书是在未进行检索的情况下作出的。
☒ 本通知书是在进行了检索的情况下作出的。
☒ 本通知书引用下述对比文献(其编号在今后的审查过程中继续沿用):
编号 文件号或名称 公开日期(或抵触申请的申请日)
1 CN1201190 A 1998.12.9
2 US2002/0049826 A1 2002.4.25
- 审查的结论性意见:
☒ 关于说明书:
☐ 申请的内容属于专利法第5条规定的不授予专利权的范围。

21301
2002.8



回函请寄: 100088 北京市海淀区蓟门桥西土城路8号 国家知识产权局专利局受理处收
(注: 凡寄给审查员个人的信函不具有法律效力)

- ☐说明书不符合专利法第 26 条第 3 款的规定。
☐说明书不符合专利法第 33 条的规定。
☒说明书的撰写不符合实施细则第 18 条的规定。
☐

☒关于权利要求书:

- ☐权利要求 不具备专利法第 22 条第 2 款规定的新颖性。
☒权利要求 1, 4, 9, 12, 25, 26 不具备专利法第 22 条第 3 款规定的创造性。
☐权利要求 不具备专利法第 22 条第 4 款规定的实用性。
☒权利要求 17 - 24 属于专利法第 25 条规定的不予授予专利权的范围。
☐权利要求 不符合专利法第 26 条第 4 款的规定。
☐权利要求 不符合专利法第 31 条第 1 款的规定。
☐权利要求 不符合专利法第 33 条的规定。
☐权利要求 不符合专利法实施细则第 2 条第 1 款关于发明的定义。
☐权利要求 不符合专利法实施细则第 13 条第 1 款的规定。
☒权利要求 5 - 8, 13 - 16 不符合专利法实施细则第 20 条的规定。
☐权利要求 不符合专利法实施细则第 21 条的规定。
☐权利要求 不符合专利法实施细则第 22 条的规定。
☐权利要求 不符合专利法实施细则第 23 条的规定。
☐

上述结论性意见的具体分析见本通知书的正文部分。

7. 基于上述结论性意见, 审查员认为:

- ☐申请人应按照通知书正文部分提出的要求, 对申请文件进行修改。
☒申请人应在意见陈述书中论述其专利申请可以被授予专利权的理由, 并对通知书正文部分中指出的不符合规定之处进行修改, 否则将不能授予专利权。
☐专利申请中没有可以被授予专利权的实质性内容, 如果申请人没有陈述理由或者陈述理由不充分, 其中请将被驳回。
☐

8. 申请人应注意下述事项:

- (1) 根据专利法第 37 条的规定, 申请人应在收到本通知书之日起的肆个月内陈述意见, 如果申请人无正当理由逾期不答复, 其申请将被视为撤回。
(2) 申请人对其申请的修改应符合专利法第 33 条的规定, 修改文本应一式两份, 其格式应符合审查指南的有关规定。
(3) 申请人的意见陈述书和/或修改文本应邮寄或递交国家知识产权局专利局受理处, 凡未邮寄或递交给受理处的文件不具备法律效力。
(4) 未经预约, 申请人和/或代理人不得前来国家知识产权局专利局与审查员举行会晤。

9. 本通知书正文部分共有 4 页, 并附有下列附件:

- ☒引用的对比文件的复印件共 2 份 16 页。 ☐



审查员: 范丹(9383)

2005 年 6 月 22 日

审查部门 审查协作中心



第一次审查意见通知书正文

申请号：031349048

本申请涉及一种存储器容量管理装置，本申请要解决的技术问题是“在移动终端的存储器不足以获得大量数据的情况下，确保移动终端存储器的空闲容量”。经审查，现提出如下审查意见：

1. 独立权利要求1不具备专利法第二十二条第三款规定的创造性。独立权利要求1请求保护一种存储器容量管理装置。对比文件1公开了一种管理便携信息终端文件存储容量的装置，并具体公开以下技术特征（说明书第2页第4行—第4页第1行，附图2，3）：主服务器中的便携信息终端文件表，其管理网络中各便携终端的文件存储容量（相应于数据容量管理装置）；通过将主服务器便携信息终端文件表管理的每个便携终端的可用空间（相当于空闲容量）与要传送到每个便携终端的文件数据的量进行比较，判断要发送至每个便携终端的文件数据是否被发送（相应于发送判断装置）。该权利要求与对比文件1的区别在于：发送装置，当所述要发送的数据被判断为不被发送时，其获得一些存储在每个所述移动终端中的数据，并且存储所述所获得的数据，使每个所述移动终端产生新的空闲容量，并且通过使用所述新的空闲容量将所述要发送的且被判断为不被发送的数据发送到每个所述移动终端。对比文件2请求保护一种用于便携终端和服务器的存储容量管理装置，上述区别特征已被对比文件2（说明书第44段—第53段，附图1）公开，当要发送至终端的数据对象由于终端的可用空间不足而被判断为不能发送时，终端可上传一部分数据，即服务器获得存储在终端中的数据，并存储所获得的数据，使终端产生新的空闲空间，然后使用新的空闲空间发送要发送的数据到终端。而且该特征在对比文件2中所起的作用与所述区别技术特征在权利要求1中为解决其技术问题所起的作用相同，都是用于解决当终端空闲容量不足时，确保数据传送至终端。也就是说对比文件2给出了将该区别技术特征用于对比文件1以解决其技术问题的启示。由此可知，在对比文件1的基础上结合对比文件2得出该权利要求所要求保护的技术方案，对本领域的技术人员来说是显而易见的，因此该权利要求所要求保护的技术方案相对于对比文件1和对比文件2不具有突出的实质性特点和显著的进步，不具备创造性。

独立权利要求4不具备专利法第二十二条第三款规定的创造性。独立权利要求4请求保护一种存储器容量管理系统。对比文件1公开了一种管理便携信息终端文件存储容量

的系统，并公开以下的技术特征（说明书第1页第8行—第12行，第2页第4行—第4页第1行，附图1—3）：便携终端具有蜂窝电话机的功能，所以便携终端具有通过网络相互通信的功能；主服务器能够存储便携终端的文件信息，根据主服务器所能实现的这一功能，可以推知主服务器必然有数据记忆装置来实现这一存储功能；主服务器，包括便携信息终端文件表，其管理各便携终端的文件存储容量；通过将主服务器便携信息终端文件表管理的每个便携终端的可用空间与要传送到每个便携终端的文件数据的量进行比较，判断要发送至每个便携终端的文件数据是否被发送（相应于发送判断装置）。其中对于要传送到终端的数据，不管是终端请求发送的数据还是服务器主动发送给终端的数据，最终数据都是从服务器传给终端，判断的过程也是基于要从服务器传给终端的数据量进行的，因此只是请求方式的不同，而并没有影响数据的实质传送方向与判断过程。该权利要求与对比文件1的区别在于：移动终端包括数据获得请求发送装置，以及发送装置。其中“发送装置”已被对比文件2公开（说明书第44段—第53段，附图1），当要发送至终端的数据对象由于终端的可用空间不足而被判断为不能发送时，终端可上传一部分数据，即服务器获得存储在终端中的数据，并在服务器中存储所获得的数据，使终端产生新的空闲空间，然后使用新的空闲空间发送要发送的数据到终端。另一区别特征“移动终端包括数据获得请求发送装置”是本领域的公知常识，因为便携终端可以是蜂窝电话等无线终端，而现实中的这些无线终端通常都具有从网络中请求获得数据，然后数据经主服务器传给终端的功能。对比文件2及所述公知常识可以给出将上述技术特征用于该对比文件1以解决其技术问题的启示。因此在对比文件1的基础上结合对比文件2及本领域公知常识，得出该权利要求所要求保护的技术方案，对本领域的技术人员来说是显而易见的，因此该权利要求所要求保护的技术方案相对于对比文件1和对比文件2不具有突出的实质性特点和显著的进步，不具备创造性。

独立权利要求9不具备专利法第二十二条第三款规定的创造性。独立权利要求9请求保护一种存储器容量管理装置的存储器容量管理方法，其各特征与独立权利要求1的各特征一一对应。以与权利要求1相似的评述理由，权利要求9相对于对比文件1和对比文件2也不具备创造性。

独立权利要求12不具备专利法第二十二条第三款规定的创造性。独立权利要求12请求保护一种存储器容量管理装置的存储器容量管理方法，其各特征与独立权利要求4的

各特征一一对应。以与权利要求4相似的评述理由，权利要求12相对于对比文件1和对比文件2也不具备创造性。

独立权利要求25不具备专利法第二十二条第三款规定的创造性。独立权利要求25请求保护一种存储器容量管理系统。该独立权利要求与权利要求4的区别在于：管理服务器，其发送每个所述移动终端请求从所述网络获得的数据到每个所述移动终端；移动终端，包括数据存储装置，其存储从所述网络获得的数据；判断装置判断每个终端请求的数据是否能被存储在终端的数据存储装置中。其中，对比文件1（说明书第1页第8行—第12行，第2页第4行—第4页第1行，附图1—3）公开：主服务器，具有发送终端请求数据至终端的功能；便携终端能够存储主服务器发送的文件，从便携终端的这一功能推断其必然包含数据存储装置，以存储从网络获得的数据。对于判断装置判断每个终端请求的数据是否能被存储在终端的数据存储装置中，即是判断从服务器发送至终端的数据能否被发送至终端，此处表述虽与权利要求4有些差别，但其判断的目标和过程实质是相同的。权利要求25其余特征与权利要求4特征的相应部分都相同。因此基于上述分析，结合权利要求4的评述理由，权利要求25相对于对比文件1和对比文件2也不具备创造性。

独立权利要求26不具备专利法第二十二条第三款规定的创造性。独立权利要求26请求保护一种存储器容量管理系统。权利要求26与权利要求25的区别在于判断装置的位置不同，权利要求26中判断装置位于终端，权利要求25中判断装置位于服务器端，但判断装置的功能都是一样的，即通过管理每个所述移动终端的空闲容量，来判断发送至终端的数据能够被发送，也即能否存储于终端的存储装置。判断装置位置的改变对其功能实现并没有产生影响。以与权利要求25相似的评述理由，权利要求26相对于对比文件1和对比文件2也不具备创造性。

2. 权利要求17—24请求保护一种“存储器容量管理装置的存储器容量管理程序”，程序本身属于专利法第二十五条第一款所规定的不授予专利权的客体，应予以删除。

3. 权利要求5—8，13—16不符合专利法实施细则第二十条第一款的规定。

权利要求5—8中，“所述的”，表述不清楚。

权利要求5—8，权利要求13—16中，多次出现“它自己的移动终端”，“它自己的”存在指代不清的问题。

申请人应对上述权利要求存在的缺陷进行修改。

4. 本申请的说明书存在不清楚之处，如“通过该方法，每次当移动终端1中记忆部分14的空闲容量变化时，空闲容量的信息被发送到互联网服务管理服务器3”（说明书第18页第18行），说明书中所指方法是指前一句所提到的“在外部设备被连接到移动终端1中提供的接口连接器或从其断开时，移动终端1发送记忆部分14的空闲容量的信息到互联网服务管理服务器3”之方法，但是通过该方法，并不能达到说明书所说的每次移动终端空闲容量变化，该变化的信息就被发送至服务器的效果，该方法只能达到当有外部设备连接至终端或从终端断开时，才发送空闲容量至服务器的效果。因此说明书内容存在前后矛盾之处，不符合专利法实施细则第十八条第三款的规定。申请人应当对说明书进行修改，克服上述缺陷，同时注意修改不得超出原申请文件记载的范围。

基于上述理由，本发明专利申请按照目前的文本不能被授权，必须修改权利要求书，并对说明书作适应性修改。此外，还应消除本通知中指出的说明书所存在的缺陷。申请人对申请文件的修改应符合专利法第三十三条的规定，不得超出原说明书和权利要求书的记载范围。申请人应在本通知指定的答复期限内提交新修改的权利要求书、说明书以及附图，并陈述修改后的权利要求书相对于本通知中引用的对比文件具有创造性的理由。另外，根据专利法实施细则第五十一条的规定，未按照上述审查意见通知书进行的修改可能导致修改文本不被接收。

审查员：范丹

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